IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION (PIL) NO.2449 OF 2005

Manubbhai Paragji Vashi — Petitioner
vs.
State of Maharashtra & ors. — Respondents

Mr.M.P.Vashi, petitioner in person.

Mr.N.P.Pandit, A.G.P. for the respondents 1 and 2.

CORAM : R. M. LODHA &
A.S.BAGGA, JJ.

DATED : 8th June, 2006

ORAL ORDER (Per R.M.Lodha,J.)

The petitioner is a practicing advocate having standing of more than 47 years. He has prayed that the State Government should recover various sums payable by the Ministers, ex-Ministers, Members of Parliament, Members of Legislative Assembly and Legislative Council. According to him, huge amount of rent in the several lacs of rupees is outstanding and have not been paid by the erstwhile Ministers in the Government of Maharashtra.

2. On 1st March, 2006 the Principal Secretary to the Government of Maharashtra, General Administration Department was directed to file his affidavit on the aspects viz. (1) on what basis the extension was granted to the ex-Ministers referred in Exhibit "1"

annexed with the affidavit of Smt.Charusheela Keshav Paranjape, Under Secretary, General Administration Department dated 28th February, 2006, (2) the status of the proceedings initiated against the ex-Ministers, ex-MLAs and the ex-MLCs for the recovery of rent/damages for the unauthorised use and occupation of the Government accommodation and (3) the status of eviction proceedings against the former Ministers under the Bombay Government Premises (Eviction) Act, 1955.

3. Pursuant thereto the affidavit has been filed by Shri Rameshchandra Kanade, Principal Secretary, General Administration Department, Mantralaya, on 14th March, 2006. In the affidavit, it is stated that Shri Suresh Dada Jain, the ex-Minister who was in occupation of Bungalow A-10 and who was granted time to vacate the same till 28th February, 2006 has vacated the said bungalow on 8th March, 2006 and the actual physical possession of the same has been handed over to the Government. The amount of Rs.42,970/- which was due and payable by him has also been paid and no amount is due and payable by Shri Suresh Dada Jain towards occupation of Bungalow A-10. As regards the ex-Ministers Shri Mohammed Arif (Nazism Khan) and Shri Chandrakant Shivarkar, it is stated that they have been granted extension to vacate the accommodation allotted to them by 31st March, 2006 and 31st May, 2006 respectively. In

so far as the ex-Minister Shri Subhash Thakre is concerned, it is stated in the affidavit that the eviction order has been passed on 28th February, 2006 and that the State Government shall take appropriate steps for execution of the said order of eviction after expiry of the appeal period. The Principal Secretary in his affidavit has stated that the Maharashtra Ministers Salaries and Allowances Act, 1956 or rules framed thereunder do not specifically provide for entitlement of Minister to continue to occupy the accommodation after the expiry of the period of 15 days from the term of office. However, the ex-Minister can be granted extension to remain in occupation of Government accommodation. Though there are no rules for grant of extension, yet it depends upon the sole discretion of the Chief Minister. As regards the recovery of the amount from MLAs and MLCs is concerned, the statement has been placed on record.

4. Mr.Niranjan Pandit, the Assistant Government Pleader submits that subsequent to the filing of the affidavit by the Principal Secretary, the ex-Ministers viz., Mr.Chandrakant Shivarkar has vacated the official accommodation on 31st May, 2006, while Shri Subhash Thakre vacated the official accommodation on 4th April, 2006. As regards the ex-Minister Shri Mohammed Arif (Nasim Khan), Mr.Niranjan Pandit informed us that

eviction order has been passed on 26th May, 2006 and that Government shall take appropriate steps for execution of the said order of eviction after expiry of appeal period.

5. Now since all the ex-Ministers have vacated the official accommodation except Shri Mohammed Arif (Nasim Khan), no further order needs to be passed by us in this regard. The eviction order has already been passed in respect of the accommodation occupied by Shri Mohammed Arif (Nasim Khan). We direct the State Government to execute the said order of eviction unless ordered otherwise by any competent Court.

6. In so far as the recovery of outstanding amount from MLAs, ex-MLAs and ex-MLCs is concerned, the Assistant Government Pleader, on the instructions of Smt.Charusheela Paranjpe, Under Secretary, General Administration Department, who is present in the Court, informed us that the State Government has issued necessary instructions to the concerned Treasury Officers/Collectors to deduct an amount of Rs.3,000/- per month from the amount of salary/pension payable to the such MLAs, ex-MLAs and ex-MLCs. We approve of this method of recovery but at the same time, we observe that where the outstanding amount exceeds Rs.50,000/-, the State Government shall also take necessary steps in

recovering the due amount as arrears of land revenue.

7. Before we part with the case, we may observe that the rates prescribed in the circular dated 18th April, 1986 issued by the Government of Maharashtra after two decades deserves relook and, if thought fit, the rent so prescribed in the circular may be revised.

8. Writ petition is disposed of accordingly.

(R.M. LODHA,J.)

(A.S. BAGGA,J.)